

1 Julie L. To (SBN 219482)
2 Department of Real Estate
3 320 West 4th Street, Suite. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6916 (direct)
6 -or- (213) 576-6982 (office)

FILED

JUL 23 2018

DEPARTMENT OF REAL ESTATE

By *Steve [Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-41108 LA

12 DUSTIN VAUGHN LUCAS,)

ACCUSATION

13)
14)
15)
16 Respondent.)

17 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
18 State of California, for cause of Accusation against DUSTIN VAUGHN LUCAS, alleges as
19 follows:

20 1.

21 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
22 State of California, makes this Accusation in her official capacity.

23 2.

24 All references to the "Code" are to the California Business and Professions Code
25 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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DRE Accusation – DUSTIN VAUGHN LUCAS

1 **DRE LICENSE HISTORY**

2 3.

3 **DUSTIN VAUGHN LUCAS**

4 A. Respondent DUSTIN VAUGHN LUCAS ("LUCAS") is presently licensed
5 and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real
6 estate broker ("REB"), California Department of Real Estate¹ ("DRE" or "Department" or
7 "CalDRE") license ID 01789367.

8 B. LUCAS was originally licensed by the DRE as a REB on or about September
9 16, 2011. Prior to his REB licensure, LUCAS was licensed by the DRE as a real estate
10 salesperson ("RES") on or about February 27, 2007.

11 C. LUCAS's DRE mailing and main office address of record are the same: 29346
12 Vacation Dr, Canyon Lake, CA 92587.

13 D. According to DRE records to date, LUCAS has no branch offices and no
14 DBAs under his DRE license.

15 E. According to DRE records to date, LUCAS employs three (3) RES under his
16 DRE license.

17 F. LUCAS' DRE license will expire on September 15, 2019.

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25 ¹ Between July 1, 2013 and June 30, 2018, the California Department of Real Estate was the California Bureau of
26 Real Estate.

1 sufficient to protect members of the public against a loss subject to the deductible amount.

2 Evidence of financial responsibility shall include one or more of the following:

3 (i) Separate fidelity bond coverage adequate to cover the amount
4 of the fidelity bond deductible.

5 (ii) A cash deposit held in a separate account, apart from other
6 funds of the broker, the broker's employees, or the broker's
7 principals, in a bank or recognized depository in this state adequate
8 to cover the amount of the fidelity bond deductible and held
9 exclusively and solely for the purpose of paying the fidelity bond
10 deductible amount.

11 (iii) Any other evidence of financial responsibility approved by the
12 commissioner.

13 (3) An arrangement under which a person enumerated in subparagraph (A),
14 (B), or (C) of paragraph (2) is authorized to make withdrawals from a trust fund account of a
15 broker shall not relieve an individual broker, nor the broker-officer of a corporate broker
16 licensee, from responsibility or liability as provided by law in handling trust funds in the
17 broker's custody.

18 . . .

19 (b) A real estate broker acting as a principal pursuant to Section 10131.1² shall
20 place all funds received from others for the purchase of real property sales contracts or
21 promissory notes secured directly or collaterally by liens on real property in a neutral escrow
22 depository unless delivery of the contract or notes is made simultaneously with the receipt of the
23 purchase funds.

24 _____
25 ²Code Section 10131.1 states, "(a) A real state broker within the meaning of this part is also a person who engages
26 as a principal in the business of making loans or buying from, selling to, or exchanging with the public, real property
27 sales contracts or promissory notes secured directly or collaterally by liens on real property..."

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...

(g) The broker shall maintain a separate record of the receipt and disposition of all funds described in subdivisions (a) and (b), including any interest earned on the funds..."

5.

Pursuant to Regulation 2726 *Broker-Salesman Relationship Agreements* :

"Every real estate broker shall have a written agreement with each of his salesmen, whether licensed as a salesman or as a broker under a broker-salesman arrangement. The agreement shall be dated and signed by the parties and shall cover material aspects of the relationship between the parties, including supervision of licensed activities, duties and compensation."

6.

Pursuant to Regulation 2831.2 *Trust Account Reconciliation*:

"The balance of all separate beneficiary or transaction records maintained pursuant to the provisions of Section 2831.1 must be reconciled with the record of all trust funds received and disbursed required by Section 2831, at least once a month, except in those months when the bank account did not have any activities. A record of the reconciliation must be maintained, and it must identify the bank account name and number, the date of the reconciliation, the account number or name of the principals or beneficiaries or transactions, and the trust fund liabilities of the broker to each of the principals, beneficiaries or transactions."

7.

Pursuant to Regulation 2832 *Trust Fund Handling*:

"(a) Compliance with Section 10145 of the Code requires that the broker place funds accepted on behalf of another into the hands of the owner of the funds, into a neutral escrow depository or into a trust fund account in the name of the broker, or in a fictitious name if the broker is the holder of a license bearing such fictitious name, as trustee at a bank or other

1 financial institution not later than three business days following receipt of the funds by the
2 broker or by the broker's salesperson.

3 (b) Except as expressly provided by subdivision (d) of Section 10145 of the
4 Code or by a regulation in this article, the account into which the trust funds are deposited shall
5 not be an interest-bearing account for which prior written notice can by law or regulation be
6 required by the financial institution as a condition to the withdrawal of funds.

7 (c) A check received from the offeror may be held uncashed by the broker until
8 acceptance of the offer if

9 (1) the check by its terms is not negotiable by the broker or if the offeror
10 has given written instructions that the check shall not be deposited nor cashed
11 until acceptance of the offer and

12 (2) the offeree is informed that the check is being so held before or at the
13 time the offer is presented for acceptance.

14 (d) In these circumstances if the offeror's check was held by the broker in
15 accordance with subdivision (c) until acceptance of the offer, the check shall be placed into a
16 neutral escrow depository or the trust fund account, or into the hands of the offeree if offeror
17 and offeree expressly so provide in writing, not later than three business days following
18 acceptance of the offer unless the broker receives written authorization from the offeree to
19 continue to hold the check.

20 (e) Notwithstanding the provisions of subdivisions (a) and (d), a real estate
21 broker who is not licensed under the Escrow Law (Section 17000, et seq., of the Financial
22 Code) when acting in the capacity of an escrow holder in a real estate purchase and sale,
23 exchange or loan transaction in which the broker is performing acts for which a real estate
24 license is required shall place all funds accepted on behalf of another into the hands of the
25 owner of the funds, into a neutral escrow depository or into a trust fund account in the name of
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1 the broker, or in a fictitious name if the broker is the holder of a license bearing such fictitious
2 name, as trustee at a bank or other financial institution not later than the next business day
3 following receipt of the funds by the broker or by the broker's salesperson.

4 8.

5 Pursuant to Regulation 2832.1 *Trust Fund Handling for Multiple Beneficiaries*:

6 "The written consent of every principal who is an owner of the funds in the
7 account shall be obtained by a real estate broker prior to each disbursement if such a
8 disbursement will reduce the balance of the funds in the account to an amount less than the
9 existing aggregate trust fund liability of the broker to all owners of the funds."

10 9.

11 Pursuant to Regulation 2834 *Trust Account Withdrawals*:

12 "(a) Withdrawals may be made from a trust fund account of an individual broker
13 only upon the signature of the broker or one or more of the following persons if specifically
14 authorized in writing by the broker:

15 (1) a salesperson licensed to the broker.

16 (2) a person licensed as a broker who has entered into a written agreement
17 pursuant to Section 2726 with the broker.

18 (3) an unlicensed employee of the broker with fidelity bond coverage at least
19 equal to the maximum amount of the trust funds to which the employee
20 has access at any time.

21 (b) Withdrawals may be made from the trust fund account of a corporate broker
22 only upon the signature of:

23 (1) an officer through whom the corporation is licensed pursuant to Section
24 10158 or 10211 of the Code or

1 (2) one of the persons enumerated in paragraph (1), (2) or (3) of subdivision
2 (a) above, provided that specific authorization in writing is given by the officer through whom
3 the corporation is licensed and that the officer is an authorized signatory of the trust fund
4 account.

5 (c) An arrangement under which a person enumerated in paragraph (1), (2) or (3)
6 of subdivision (a) above is authorized to make withdrawals from a trust fund account of a broker
7 shall not relieve an individual broker, nor the broker-officer of a corporate broker licensee, from
8 responsibility or liability as provided by law in handling trust funds in the broker's custody."

9 10.

10 Pursuant to Regulation 2950 *When Broker Handles Escrow*:

11 "The following acts in the handling of an escrow by a real estate broker
12 exempted from the provisions of the Escrow Law (by Section 17006(a)(4) of the Financial
13 Code) are prohibited and may be considered grounds for disciplinary action:

14 (a) Soliciting or accepting an escrow instruction (or amended or supplemental
15 escrow instruction) containing any blank to be filled in after signing or initialing of such escrow
16 instruction (or amended or supplemental escrow instruction).

17 (b) Permitting any person to make any addition to, deletion from, or alteration of
18 an escrow instruction (or amended or supplemental escrow instruction) received by such
19 licensee, unless such addition, deletion or alteration is signed or initialed by all persons who had
20 signed or initialed such escrow instruction (or amended or supplemental escrow instruction)
21 prior to such addition, deletion or alteration.

22 (c) Failing to deliver at the time of execution of any escrow instruction or
23 amended or supplemental escrow instruction a copy thereof to all persons executing the same.

24 (d) Failing to maintain books, records and accounts in accordance with accepted
25 principles of accounting and good business practice.

1 (e) Failing to maintain the office, place of books, records, accounts, safes, files,
2 and papers relating to such escrows freely accessible and available for audit, inspection and
3 examination by the commissioner.

4 (f) Failing to deposit all money received as an escrow agent and as part of an
5 escrow transaction in a bank, trust account, or escrow account on or before the close of the next
6 full working day after receipt thereof.

7 (g) Withdrawing or paying out any money deposited in such trustee account or
8 escrow account without the written instruction of the party or parties paying the money into
9 escrow.

10 (h) Failing to advise all parties in writing if he has knowledge that any licensee
11 acting as such in the transaction has any interest as a stockholder, officer, partner or owner of the
12 agency holding the escrow.

13 (i) Failing upon closing of an escrow transaction to render to each principal in the
14 transaction a written statement of all receipts and disbursements together with the name of the
15 person to whom any such disbursement is made.

16 (j) Delivering or recording any instrument which purportedly transfers a party's
17 title or interest in or to real property without first obtaining the written consent of that party to
18 the delivery or recording.”

19 11.

20 Pursuant to Regulation 2951 *Record Keeping and Funds Handling*:

21 “The provisions of Sections 2831, 2831.1, 2831.2, 2832, 2832.1, 2834 and 2835
22 of these regulations shall apply to the handling of funds and the keeping of records by a real
23 estate broker who is not licensed under the Escrow Law (Section 17000, et seq., of the Financial
24 Code) when acting in the capacity of an escrow holder in a real estate purchase and sale,
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1 exchange or loan transaction in which the broker is performing acts for which a real estate
2 license is required.”

3 **Responsibility of Corporate Officer in Charge – Code Section 10159.2 and Regulation 2725**

4 12.

5 Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in Charge:*

6 “(a) The officer designated by a corporate broker licensee pursuant to Section
7 10211 shall be responsible for the supervision and control of the activities conducted on behalf
8 of the corporation by its officers and employees as necessary to secure full compliance with the
9 provisions of this division, including the supervision of salespersons licensed to the corporation
10 in the performance of acts for which a real estate license is required.

11 (b) A corporate broker licensee that has procured additional licenses in
12 accordance with Section 10158 through officers other than the officer designated pursuant to
13 Section 10211 may, by appropriate resolution of its board of directors, assign supervisory
14 responsibility over salespersons licensed to the corporation to its broker-officers.

15 (c) A certified copy of any resolution of the board of directors assigning
16 supervisory responsibility over real estate salespersons licensed to the corporation shall be filed
17 with the Real Estate Commissioner within five days after the adoption or modification thereof.”

18 13.

19 Pursuant to Regulation 2725 *Broker Supervision:*

20 “A broker shall exercise reasonable supervision over the activities of his or her
21 salespersons. Reasonable supervision includes, as appropriate, the establishment of policies,
22 rules, procedures and systems to review, oversee, inspect and manage:

23 (a) Transactions requiring a real estate license.

24 (b) Documents which may have a material effect upon the rights or obligations of
25 a party to the transaction.

1 (c) Filing, storage and maintenance of such documents.

2 (d) The handling of trust funds.

3 (e) Advertising of any service for which a license is required.

4 (f) Familiarizing salespersons with the requirements of federal and state laws
5 relating to the prohibition of discrimination.

6 (g) Regular and consistent reports of licensed activities of salespersons.

7 The form and extent of such policies, rules, procedures and systems shall take
8 into consideration the number of salespersons employed and the number and location of branch
9 offices.

10 A broker shall establish a system for monitoring compliance with such policies,
11 rules, procedures and systems. A broker may use the services of brokers and salespersons to
12 assist in administering the provisions of this section so long as the broker does not relinquish
13 overall responsibility for supervision of the acts of salespersons licensed to the broker.”

14 **False or Fictitious Business Name – Code Section 10159.5 and Regulation 2731**

15 14.

16 Pursuant to Code Section 10159.5 *Fictitious Name*: “Every person applying for a
17 license under this chapter who desires to have the license issued under a fictitious business name
18 shall file with his or her application a certified copy of his or her fictitious business name
19 statement filed with the county clerk pursuant to Chapter 5 (commencing with Section 17900) of
20 Part 3 of Division 7.”

21 15.

22 Pursuant to Regulation 2731(a), “A licensee shall not use a fictitious name in the
23 conduct of any activity for which a license is required under the Real Estate Law unless the
24 licensee is the holder of a license bearing the fictitious business name.”

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1 Branch Offices – Code Section 10163 and Regulation 2715

2 16.

3 Pursuant to Code Section 10163 *Branch Offices*: “If the applicant for a real estate
4 broker’s license maintains more than one place of business within the State he shall apply for and
5 procure an additional license for each branch office so maintained by him. Every such
6 application shall state the name of the person and the location of the place or places of business
7 for which such license is desired. The commissioner may determine whether or not a real estate
8 broker is doing a real estate brokerage business at or from any particular location which requires
9 him to have a branch office license.”

10 17.

11 Pursuant to Regulation 2715, “Every broker, except a broker acting in the
12 capacity of a salesperson to another broker under written agreement, shall maintain on file with
13 the commissioner the address of his principal place of business for brokerage activities, the
14 address of each branch business office and his current mailing address, if different from the
15 business address. Every broker who is acting in the capacity of a salesperson to another broker
16 under written agreement shall maintain on file with the commissioner the address of the business
17 location where he expects to conduct most of the activities for which a license is required and his
18 current mailing address. A real estate salesperson shall maintain on file with the commissioner
19 his current mailing address, and when applicable, the address of the principal business office of
20 the broker to whom the salesperson is at the time licensed. Whenever there is a change in the
21 location or address of the principal place of business or of a branch office of a broker, he shall
22 notify the commissioner thereof not later than the next business day following the change. This
23 section shall apply to the holder of a real estate license who fails to renew it prior to the period
24 for which it was issued and who is otherwise qualified for such license as set forth in Section
25 10201 of the Code.”

1 **Engaging in Prohibited Activity, Exemptions from Escrow Law –**
2 **Code Section 10086 and Financial Code Section 17006**

3 18.

4 Pursuant to Code Section 10086 *Engaging in Prohibited Activity – Order to*
5 *Desist and Refrain*: “(a) If the commissioner determines through an investigation that (1) a
6 person has engaged or is engaging in an activity which is a violation of a provision of this part,
7 other than a provision of Article 8 (commencing with Section 10249) of Chapter 3, or which is a
8 violation of a regulation of the commissioner adopted for the purpose of implementing any
9 provision of this part, other than a regulation adopted pursuant to a provision of Article 8
10 (commencing with Section 10249) of Chapter 3, or (2) a real estate broker has engaged in or is
11 engaging in an activity which is a violation of a provision of Division 6 (commencing with
12 Section 17000) of the Financial Code, and which is not exempt pursuant to paragraph (4) of
13 subdivision (a) of Section 17006, the commissioner may direct the person to desist and refrain
14 from such activity by issuance of an order specifying the nature of the activity and the factual
15 and legal basis for his or her determination. The respondent to whom the order is directed shall
16 immediately, upon receipt of the order, cease the activity described in the order.”

17 19.

18 Pursuant to California Financial Code Section 17006, “(a) This division does not
19 apply to:

20 ...

21 (4) Any broker licensed by the Real Estate Commissioner while
22 performing acts in the course of or incidental to a real estate transaction in
23 which the broker is an agent or a party to the transaction and in which the
24 broker is performing an act for which a real estate license is required.
25

1 (b) The exemptions provided for in paragraphs (2) and (4) of subdivision (a) are personal
2 to the persons listed, and those persons shall not delegate any duties other than duties performed
3 under the direct supervision of those persons. Notwithstanding the provisions of this
4 subdivision, the exemptions provided for in paragraphs (2) and (4) of subdivision (a) are not
5 available for any arrangement entered into for the purpose of performing escrows for more than
6 one business.”

7 **Grounds for Revocation or Suspension – Code Section 10176**

8 20.

9 Pursuant to Code Section 10176, “The commissioner may, upon his or her own
10 motion, and shall, upon the verified complaint in writing of any person, investigate the actions
11 of any person engaged in the business or acting in the capacity of a real estate licensee within
12 this state, and he or she may temporarily suspend or permanently revoke a real estate license at
13 any time where the licensee, while a real estate licensee, in performing or attempting to perform
14 any of the acts within the scope of this chapter has been guilty of any of the following:
15

16 ...

17 (i) Any other conduct, whether of the same or a different character than specified
18 in this section, which constitutes fraud or dishonest dealing.”

19 **Further Grounds for Disciplinary Action – Code Section 10177**

20 21.

21 Pursuant to Code Section 10177, “The commissioner may suspend or revoke the
22 license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny
23 the issuance of a license to an applicant, who has done any of the following:
24

25 ...

1 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
2 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and
3 regulations of the commissioner for the administration and enforcement of the Real Estate Law
4 and Chapter 1 (commencing with Section 11000) of Part 2.”

5 ...

6 (g) Demonstrated negligence or incompetence in performing an act for which he
7 or she is required to hold a license.

8 (h) As a broker licensee, failed to exercise reasonable supervision over the
9 activities of his or her salespersons, or, as the officer designated by a corporate broker licensee,
10 failed to exercise reasonable supervision and control of the activities of the corporation for
11 which a real estate license is required.”

12 ...

13 (j) Engaged in any other conduct, whether of the same or a different character
14 than specified in this section, that constitutes fraud or dishonest dealing...”

15 **DRE AUDIT OF DUSTIN VAUGHN LUCAS’**

16 **BROKER ESCROW (SD 160022) & REAL ESTATE SALES (SD 160032) ACTIVITIES**

17 22.

18 On March 3, 2017, the DRE completed its audit examinations of the books and
19 records of Respondent LUCAS pertaining to both his broker escrow activity (SD 160022) and
20 his real estate sales activity (SD 160032) described in Paragraphs 23A. through 23D., below,
21 which require a real estate license. The audit examinations covered a period of time beginning
22 on October 1, 2014 and ending on November 30, 2016 (“audit examination period” or “audit
23 period”), and was performed during the period January 6, 2017 through February 22, 2017
24 (“audit field work period”). The final March 3, 2017 combined report of both audits revealed
25 violations of the Code and the Regulations as set forth in the following paragraphs, and more
26

1 fully discussed in Audit Reports SD 160022 and SD 160032.

2 23.

3 Business Activities

4 A. At all times mentioned in Riverside County, California, Respondent LUCAS
5 acted as a REB, and ordered, caused, authorized or participated in licensed activities within the
6 meaning of:

7 1. Financial Code Section 17006(a)(4) [exemption] by performing acts in
8 the course of or incidental to a real estate transaction in which LUCAS was the agent or a party
9 to the transaction and in which LUCAS performed an act for which a real estate license is
10 required ("broker escrow activity"), and

11 2. Code Section 10131(a), by selling or offering to sell, buying or offering
12 to buy, soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, or
13 negotiating the purchase, sale or exchange of real property or a business opportunity ("real estate
14 sales").

15 B. According to LUCAS, as of January 6, 2017, he closed about thirteen (13)
16 escrow transactions and collected about \$1.6 million in escrow trust funds. Included in these
17 escrow transactions were three (3) escrow transactions where LUCAS acted as the escrow agent,
18 but he was not a party to the transactions. LUCAS maintained one (1) bank account for the
19 receipts and disbursements of trust funds in connection with the broker escrow activity. LUCAS
20 indicated that he discontinued his broker escrow activity/services in July 2016.

21 C. According to LUCAS, as of January 18, 2017, he closed about thirty (30) real
22 estate sales transactions and did not collect any Earnest Money Deposits ("EMDs") during the
23 audit period. LUCAS did not maintain a trust account and did not maintain a columnar record of
24 trust funds received not placed in broker's trust in connection with the sales activity during the
25

1 audit period. EMDs were held and delivered directly to escrow by the buyers in connection with
2 the sales activity.

3 D. According to LUCAS, on January 6, 2017, the bank account described below
4 as "B/A 1," which was used for the receipts and disbursements of trust funds in connection with
5 the broker escrow activity during the audit period, was opened under "D V Lucas Inc" ("DVLK"),
6 DBA "Inland Realty Group" and not under his personal name. DVLK was not licensed by the
7 DRE during the audit period. LUCAS also stated that all the real estate sales commission checks
8 were either cashed or have been deposited into DVLK's general business account.

9 E. The DRE auditor discovered that all the real estate sales files sampled for
10 examination showed LUCAS' name, DRE REB license number, and the DBA "Inland Realty
11 Group" on the purchase agreements, listing agreements, escrow instructions, and other related
12 services disclosures.

13 F. According to LUCAS, the corporate structure for DVLK was as follows: he is
14 the CEO, CFO, Secretary and one hundred percent (100%) owner.

15 24.

16 Bank Account

17 According to LUCAS, he maintained the following one (1) bank account to
18 handle the receipts and disbursements of trust funds in connection with the broker escrow
19 activity during the audit period:

20 Bank Account # 1 (B/A 1)

21 * Account Name: D V Lucas Inc DBA Inland Realty Group"

22 * Bank: Union Bank, 9811 Magnolia Ave., Suite B, Riverside, CA 92503

23 * Account No. #####0764

24 * Signatories: LUCAS, Susan A Ramos (REB, DRE license ID 01766128,
effective June 28, 2016) ("Ramos")

25 * Signatures required: one (1)

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1 **AUDIT FINDINGS: VIOLATIONS OF THE REAL ESTATE LAW**

2 25.

3 The DRE audits examined LUCAS’s broker escrow and real estate sales
4 activities. In the course of activities as described in Paragraphs 23A. through 23F., above, and
5 during the audit examination period described in Paragraph 22, Respondent LUCAS violated the
6 Code and the Regulations, as described below:

7 26.

8 **Trust Fund Handling for Multiple Beneficiaries/ Withdrawing Escrow Funds Without**
9 **Written Instructions from Parties/ When Broker Handles Escrow**
10 **(Code Section 10145 and Regulations 2832.1, 2950(g), and 2951)**

11 A. Based on the records provided, the DRE Auditor found that as of June 30,
12 2016, B/A 1 contained a shortage in the amount of <\$40,461.78>. This shortage was due to
13 bank service charges totaling <\$116.00> and conversion of trust funds/ unauthorized
14 disbursements totaling <\$40,345.78>. There was no evidence provided that the trust fund
15 owners had given LUCAS their written consent to reduce the balance of trust funds in B/A 1 to
16 an amount less than the aggregate trust fund liabilities, in violation of **Code Section 10145 and**
17 **Regulation 2832.1.**

18 B. During the audit examination period and prior to the audit field work period,
19 between March 11, 2016 and August 30, 2016, LUCAS made multiple payments totaling
20 \$30,747.65 to the seller of escrow number IRG-006 (Mickey H.) from his general business
21 account number #####4589, to cure the trust fund shortage.

22 C. As of the February 22, 2017 audit exit interview, the remaining trust fund
23 shortage totaling <\$9,714.13> in B/A 1 as of June 30, 2016 had not been cured.

24 D. LUCAS indicated that his escrow operations were shut down in July of 2016
25 with escrow officers, Cathy Phelan and Ramos, resigning their positions.

1 E. Based on the B/A 1 bank statements that were examined for the audit, there
2 was a balance of \$102.91 in B/A 1 as of the audit cutoff date of November 30, 2016.

3 27.

4 **Trust Fund Handling – Trust Account Reconciliation/ When Broker Handles Escrow**
5 **(Code Section 10145 and Regulations 2831.2, 2950(d), and 2951)**

6 During the audit period, LUCAS did not maintain the monthly reconciliations of
7 all the separate records to the control record of all trust funds received and disbursed for B/A 1 in
8 connection with the broker escrow activity, in violation of **Code Section 10145 and Regulation**
9 **2831.2.**

10 28.

11 **Trust Fund Handling/ When Broker Handles Escrow**
12 **(Code Section 10145 and Regulations 2832 and 2951)**

13 According to the bank signature card maintained at Union Bank for B/A 1, which
14 was used for handling the receipts and disbursements of trust funds in connection with the broker
15 escrow activity, the bank account was not set up in the name of DUSTIN VAUGHN LUCAS as
16 trustee. B/A 1 was set up in the name of “D V Lucas INC DBA Inland Realty Group” instead, in
17 violation of **Code Section 10145 and Regulations 2832 and 2951.**

18 29.

19 **Conversion of Trust Funds, Unauthorized Disbursements, Withdrawing Escrow Funds**
20 **Without Written Instructions from Parties, Mishandling of Trust Funds/**
21 **When Broker Handles Escrow**
22 **(Code Sections 10145, 10176(i), and 10177(j) and Regulations 2950(g) and 2951)**

23 A. During the audit period, LUCAS converted and made unauthorized
24 disbursements of trust funds totaling <\$40,345.78> from B/A 1 as of June 30, 2016, without
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1 written consent/ authorization from the owners of the trust funds, in violation of **Code Sections**
2 **10145, 10176(i), and 10177(j) and Regulations 2950(g) and 2951.**

3 B. As of the audit cutoff date, November 30, 2016, LUCAS refunded \$30,747.65
4 that was owed to Mickey H. from his general account #####4589 to cure part of the
5 <\$40,461.78> shortage in B/A 1.

6 C. As of the February 22, 2017 audit exit interview, the remaining trust fund
7 shortage totaling <\$9,714.13> in B/A 1 as of June 30, 2016 had not been cured.

8 30.

9 **Broker- Salesperson Relationship Agreements, Trust Account Withdrawals/**

10 **When Broker Handles Escrow**

11 **(Code Section 10145 and Regulations 2726, 2834, and 2951)**

12 A. LUCAS did not retain a broker-salesperson relationship agreement with
13 Ramos, who was a licensed REB and a signer on B/A 1, which was used for handling the
14 receipts and disbursements of trust funds in connection with the broker escrow activity, in
15 violation of **Code Section 10145 and Regulations 2726, 2834, and 2951.**

16 B. LUCAS did not retain written authorization on file to authorize Ramos to sign
17 on and make withdrawals from B/A 1 (Ramos was added as a B/A 1 signer on June 28, 2016.),
18 in violation of **Code Section 10145 and Regulations 2726, 2834, and 2951.**

19 31.

20 **Use of False or Fictitious Name**

21 **(Code Section 10159.5 and Regulation 2731)**

22 A. LUCAS used the unlicensed fictitious business name (“FBN”) “Inland Realty
23 Group” in connection with the broker escrow and the real estate sales activities during the audit
24 period without first obtaining a license from the DRE bearing said fictitious business name, in
25 violation of **Code Section 10159.5 and Regulation 2731.**

1 B. LUCAS used the unlicensed FBN "D V Lucas Inc" in connection with the
2 broker escrow activity during the audit period, without first obtaining a license from the DRE
3 bearing said fictitious business name, in violation of **Code Section 10159.5 and Regulation**
4 **2731.**

5 32.

6 **Branch Offices, Business and Mailing Addresses of Licensees**

7 **(Code Section 10163 and Regulation 2715)**

8 LUCAS used the unlicensed branch office located at 6550 Van Buren Blvd., #C,
9 Riverside, CA 92503, in connection with the broker escrow activity during the audit period
10 without first obtaining a license from the DRE, in violation of **Code Section 10163 and**
11 **Regulation 2715.**

12 33.

13 **Engaging in Prohibited Activity – Exemptions from Escrow Law**

14 **(Code Section 10086(a) and Financial Code Section 17006(a)(4))**

15 A. LUCAS acted as an escrow agent when he was not a party to the underlying
16 real estate transaction in three (3) escrow files sampled for examination, in violation of **Code**
17 **Section 10086(a) and Financial Code Section 17006(a)(4).**

18 B. In two (2) escrow files examined (escrow numbers IRG-003 and IRG-006),
19 LUCAS performed the escrow for a real estate investment transaction (house flipping)
20 negotiated by investor/buyer "IE Home Solutions, LLC" ("IEHS") and in one (1) escrow file
21 examined (escrow number IRG-004), LUCAS performed the escrow for a refinance loan
22 transaction negotiated by mortgage lender Amerifirst Financial, Inc.

23 C. According to LUCAS, he is and was the general and only member of IEHS,
24 which purchased real estate properties and concurrently reassigned and resold said properties to
25 another investor/buyer with the same sale terms in exchange for an assignment fee. LUCAS
26

1 performed the escrow and did not represent the buyer or the seller in said transactions. LUCAS
2 did not use his REB license and no real estate commissions were paid in said investment
3 transactions.

4 34.

5 **Broker Supervision**

6 **(Code Section 10177(h) and Regulation 2725)**

7 The acts and/or omissions of LUCAS during the audit period demonstrate a
8 failure to adequately supervise and control the broker escrow activities conducted by his
9 licensees and/or employees to ensure compliance with the Real Estate Law and Regulations:

10 A. LUCAS failed to maintain trust account reconciliations for his broker escrow
11 activity.

12 B. B/A 1, which was used for handling the receipts and disbursements of trust
13 funds in connection with the broker escrow activity, was not set up in the name of DUSTIN
14 VAUGHN LUCAS as trustee; instead, B/A 1 was set up in the name of "D V Lucas Inc DBA
15 Inland Realty Group."

16 C. LUCAS converted and disbursed trust funds from B/A 1 as of June 30, 2016
17 without written consent/authorization from the trust fund owners.

18 D. LUCAS used the unlicensed FBN "Inland Realty Group" in connection with
19 the broker escrow and real estate sales activities. LUCAS used the unlicensed FBN "D V Lucas
20 Inc" in connection with the broker escrow activity.

21 E. LUCAS used the unlicensed branch office located on Van Buren Blvd. in
22 connection with the broker escrow activity.

23 F. LUCAS acted as the escrow agent in a transaction to which he was not a party
24 in at least three (3) escrow files sampled for examination.

25 LUCAS failed to establish policies, rules, procedures and systems to review, oversee, inspect
26

1 and manage transactions requiring a real estate license and the handling of trust funds, , in
2 violation of **Code Section 10177(h) and Regulation 2725.**

3 **Additional Violations of the Real Estate Law**

4 35.

5 The overall conduct of Respondent DUSTIN VAUGHN LUCAS is violative of
6 the Real Estate Law and constitutes cause for the suspension or revocation of his real estate
7 licenses and license rights under the provisions of **Code Section 10177(g)** for negligence and
8 **Code Section 10177(d)** for willful disregard of the Real Estate Law.

9 **COSTS**

10 **Investigation and Enforcement Costs**

11 36.

12 **Code Section 10106** provides, in pertinent part, that in any order issued in
13 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
14 may request the administrative law judge to direct a licensee found to have committed a
15 violation of this part to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 **Audit Costs**

18 37.

19 **Code Section 10148(b)** provides, in pertinent part, the Commissioner shall
20 charge a real estate broker for the cost of any audit, if the Commissioner has found in a final
21 decision following a disciplinary hearing that the broker has violated Code section 10145 or a
22 regulation or rule of the Commissioner interpreting said section.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against the licenses and license rights of Respondents DUSTIN VAUGHN LUCAS under
4 the Real Estate Law (Part 1 of vision 4 of the Business and Professions Code), for the cost of
5 investigation and enforcement as permitted by law, and for such other and further relief as may
6 be proper under other provisions of law, and for costs of audit.

7 Dated at San Diego, California

8 this 19 day of JULY, 2018.

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10 
11 Veronica Kilpatrick
12 Supervising Special Investigator
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17 cc: DUSTIN VAUGHN LUCAS
18 Enforcement – K. Stanbra, V. Kilpatrick
19 Audits – Z. Wanis, D. Cheng, J. Lin
20 Sacto.
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